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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERSAZ CORP COMMISSION
DOCKET CONTROL

2014 DEC 30 AM 9 52

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

ORIGINAL

J. ALAN SMITH,
COMPLAINANT,

VS.

PAYSON WATER CO., INC. /BROOKE
UTILITIES, INC.

RESPONDENT.

DOCKET NO. W-03514A-12-0007
Arizona Corporation Commission

DOCKETED

DEC 30 2014

DOCKETED BY

PROCEDURAL ORDER**BY THE COMMISSION:**

On January 10, 2012, J. Alan Smith ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint against Payson Water Co., Inc. ("Payson Water" or "Company") and Brooke Utilities, Inc.

On September 2, 2014, the Commission's Utilities Division ("Staff") filed a Request for Procedural Conference. Staff requested that a Procedural Order be issued scheduling a date and time for Jim Pearson to appear and be questioned telephonically regarding documents listed in a prior subpoena.

On September 19, 2014, the Complainant filed a Response to Staff's Request for Procedural Conference. The Complainant argued that a telephonic appearance by Mr. Pearson would not allow the Complainant to show Mr. Pearson physical evidence to review, and would not satisfy the requirements of the subpoena for Mr. Pearson to attend in person and produce certain documentation.

On October 8, 2014, Staff filed a Response to Complainant's Response. Staff stated that the Commission has permitted telephonic witness appearances in numerous proceedings, and because Mr. Pearson is a non-party witness, flexibility should be allowed to accommodate Mr. Pearson's employment as a truck driver. Staff also claims that Mr. Pearson has indicated he does not have any

1 documents that are responsive to the subpoena.

2 On October 27, 2014, the Complainant filed an Objection to Staff's Response to
3 Complainant's Response to Staff's Request for Procedural Conference.

4 On October 27, 2014, a Procedural Order was issued scheduling a procedural conference for
5 November 17, 2014, for the purpose of taking sworn telephonic testimony from Jim Pearson.

6 On November 3, 2014, counsel for Payson Water filed a Motion to Withdraw as Counsel.

7 On November 17, 2014, a procedural conference was held as scheduled during which Mr.
8 Pearson gave sworn telephonic testimony. At the conclusion of the procedural conference, the parties
9 were directed to discuss potential hearing dates and to submit proposed dates.

10 On December 15, 2014, the Complainant filed a Request to Set a Date for Hearing in the
11 Above Cited Matter. The Complainant requested a hearing date be scheduled for January 15 and/or
12 16, 2015, or, alternatively, January 22 and/or 23, 2015. He indicated that the Company and Staff do
13 not object to the proposed hearing dates.

14 IT IS THEREFORE ORDERED that the **Motion to Withdraw as Counsel for Payson**
15 **Water Co., Inc. is hereby granted.**

16 IT IS FURTHER ORDERED that a **hearing shall commence in this matter on January 15,**
17 **2015, at 10:00 a.m., at the offices of the Commission, 1200 West Washington Street, Phoenix,**
18 **Arizona 85007, Hearing Room No. 1.**

19 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
20 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*
21 *hac vice*.

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
23 Communications) applies to this proceeding and shall remain in effect until the Commission's
24 Decision in this matter is final and non-appealable.

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 30th day of December, 2014.



Dwight D. Nodes
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 30th day of December, 2014 to:

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